THE HON'BLE SRI JUSTICE C.V.RAMULU

WRIT PETITION NO.18264 OF 2006

DATE: 11th September 2006

Between:

1. P.Muthylalaiah, S/o P.Pokkalaiah,
   aged 59 years, Occ: cultivation,
   R/o Vedantha Puram Agraharam,
   Tirupati Rural Mandal, Chittoor
   District and another.

… Petitioners.

And

1. The Government of Andhra Pradesh,
   rep. by the Commissioner & Registrar of
   Cooperative Societies, Andhra Pradesh,
   Hyderabad and 7 others.

… Respondents.

* * *

ORDER:

Heard both sides.

2. This writ petition is disposed of at this stage with the consent of all the parties to the writ petition.

3. The only question that falls for consideration in this writ petition is whether the order issued by the third respondent for conducting elections to the second respondent-The Tirupati Cooperative Bank Ltd., Tirupati, is *ultra vires*.

4. It is not in dispute that the second respondent society is an unaided society and it is also not in dispute that the power to

conduct elections is with the outgoing committee or general body in the absence of the committee. In this case, the second respondent society was superseded under Section 32 of the A.P. Cooperative Societies Act (for short 'the Act') and a person in charge committee was appointed to look after the affairs of the society as required under Section 32 of the Act. Section 32 (5) of the Act reads as under:

> " At the expiration of the period of appointment of the special officer or the managing committee, the Registrar shall arrange for the calling of a general meeting for the election of a new committee in accordance with the provisions of sub-section (5) of Section 32."

From the above, it is clear that in case of supersession of a society, as soon as term of office of the person in charge committee is completed, the elections to the committee must be held by calling a general body meeting for appointment of E.O. and not by way of appointing an officer by the third respondent as is done in this case. Obviously, the impugned order is without any power. Therefore, the orders dated 31.7.2006 issued by the third respondent is liable to be set aside.

5. The writ petition is allowed and the impugned proceedings are set aside. However, the person in charge committee is directed to hold general body meeting for appointment of an officer for the purpose of conducting elections to the Managing Committee of the second respondent society as per law within a period of four weeks from the date of receipt of a copy of this order.

C.V.RAMULU, J.

Date: 11th September 2006.
BSB